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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,448	02/12/2004	Bruce K. Zeller	34985.0200	8982

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EXAMINER

JOERGER, KAITLIN S

ART UNIT

PAPER NUMBER

3653

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/779,448

Applicant(s)

ZELLER, BRUCE K.

Examiner

Kaitlin S. Joerger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5-7,9-17 and 32 is/are allowed.
- 6) ☒ Claim(s) 18-25,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-21, 23-25, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Bellamy et al. (5,855,352).

Hart teaches an apparatus for separating comprising: a frame, 16; an adjustable screen, 14, position over top of the frame, where a first end of the screen is connected to a first end of the frame and a second end of the screen is connected to the second end of the frame; a removable trough, 120; and a motor, 74.

The apparatus further including a vertical bar member, 30 and 32, of adjustable height attached to the bottom surface of the screen; a wheel, 36. The adjustable screen includes a lip member, 60 and 62, a plurality of vertical support bars, 48, 50, and 55; and horizontal cross members 52 and 54. The trough includes a lip and handles, see figure 6. The motor is attached to at least one horizontal cross member, 54, via a mounting plate, see figure 4.

Hart teaches all of the limitations of the claimed invention except for the mounting brackets. Bellamy et al. teaches mounting brackets for mounting for connecting two rigid elements, see column 1, lines 1+, wherein the brackets comprise an opening for retaining the horizontal cross bar member, see the center of figure 2,. The brackets further comprise an outer

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layer 8 and 2, middle layer, 3, and inner-layer, 1, see figure 2. Bellamy et al. further teaches that the middle layer comprises an isolation material, see column 2, lines 15+.

It would have been obvious to one of ordinary skill in the art to use the mounting brackets of Bellamy et al. on the separating screen of Hart in order to dampen vibratory motion between the two rigid elements, the vibrating screen assembly and the cross bar members, of Hart.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,827,513) in view of Bellamy et al. as applied to claim 18 above, and further in view of Hartmann (590,571).

The combination of Hart and Bellamy et al. teaches all of the limitations of the claimed invention except for a platform attached to the frame for supporting the removable trough. Hartmann teaches a portable screening apparatus with a removable trough, k, that is supported on a platform, l.

It would have been obvious to one of ordinary skill in the art to use the platform and removable trough of Hartmann with the portable separator taught by Hart in order to easily transport the trough to dump the oversize pieces at a different location.

Allowable Subject Matter

Claims 1, 3, 5-7, 9-17, and 32 are allowed.

Response to Arguments

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Applicant's arguments, see page 8-10, filed 1/23/07, with respect to claims 1, 3, 5-7, 9-17, and 32 have been fully considered and are persuasive. The rejection of claims 1, 3, 5-7, 9-17, and 32 has been withdrawn.

Applicant's arguments filed 1/23/07 with respect to claims 18-25, 30, and 31 have been fully considered but they are not persuasive. The applicant argues that Bellamy et al. fails to teach an opening within a bracket for retaining a horizontal cross bar member along with a number of layers which concentrically surround the opening. The applicant cites column 3, lines 47-64, stating that instead the applicant teaches hole, 13. The examiner draws the applicant attention to column 2, lines 6+, which state that the first strength member is hollow, and therefore there is a hole through which a cross member can be retained. Column 1, lines 1+ further state that the mounting bracket is for damping and connection purposes between to rigid elements, such as a frame and a motor. Therefore, the examiner asserts that the Bellamy et al. reference does teach the mounting bracket as claimed, and claim 18-25, 30, and 31 remain rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaitlin S. Joerger whose telephone number is 571-272-6938. The examiner can normally be reached on Monday - Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kaitlin S Joerger
Examiner
Art Unit 3653

11 April 2007


PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600